



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



New South Wales Half Day Conference

Members of MLAANZ will not be surprised by the scope of talents of the maritime judiciary we enjoy in Australia and New Zealand. However, rarely do you come across one who can give an erudite and comprehensive analysis on choice of law issues relevant to shipboard torts and also deliver extracts of a leading judgment on the subject by the Court of Session, Scotland in a highly credible Scottish accent. Such were the talents of keynote speaker at the mini-conference, the Honourable Justice Nigel Rein, Judge of the Supreme Court of New South Wales and Admiralty List Judge.

Justice Rein spoke to his Honour's paper Raising the Flag: Revisiting choice of law rules for shipboard torts as recently published in the Australian Law Journal¹. This presentation was both interesting and incisive and was thoroughly enjoyed by all in attendance.

The event was a half-day conference held in Sydney at the City Tattersalls Club on 1 May with a programme of seven speakers. The speakers all gave high calibre, interesting and, at times, entertaining presentations on a wide range of maritime law and related topics.

Peter King of Queen's Square Chambers, spoke on the Collision Rules, Negligence and Recent Developments. Peter posed some interesting questions in his analysis on this topic including the spectre of a "collision" between the Collision Rules and the requirements of the Civil Liability Act 2002 (NSW).



The Hon Justice Rein with Terri Bell, Chair of the NSW Branch

Tim Castle of Ground Floor Wentworth Chambers urged MLAANZ to engage with UNCITRAL on the Rotterdam Rules, electronic documents and other issues with a maritime or trade connection, on the UNCITRAL agenda. The message was well received with further consideration to be given as to how MLAANZ might encourage and co-ordinate a greater level of participation.

After a quick break for morning tea, Geoff Farnsworth of M+K Lawyers presented on expert evidence in arbitration and gave some interesting insights from an arbitrator's perspective including discussion on the decision in Emerald Grain Australia Pty Limited v Agrocorp International Pte Ltd² which had been handed down the day before and involved an application to set aside an arbitral award on a number of grounds including a breach of the rules of natural justice. Geoff informed us that our President, Matthew Harvey, appearing for the respondent, had ensured that his award was not struck down.

¹ (2014) 88 ALJ 247

² (2014) FCA 414

This was followed by a presentation by Marcus John, Director of Thomas Miller on Port Risk Matrix that was both insightful and concise. Marcus spoke on commercial risk allocation in ports and terminals in situations of refuge illustrated using recent examples. Marcus brought an impressive knowledge and experience to this topic which involves many competing commercial concerns.

Rami Fhamy gave a graphically animated and entertaining presentation about risk management. This was done in the context of an actual case involving the rather stomach churning infestation of foodstuffs at a client's warehouse.

Damien Timms of Norton Rose Fulbright gave an excellent overview of some of the issues arising out of the recent decision in *Atlasnavios Navegacao, LDA v The Ship "Xin Tai Hai" (No 2)* (2012) 301 ALR 357.

Stuart Hetherington, as current President of CMI, was also able to give attendees a high level overview of the role that CMI has with UNCITRAL and recent developments with CMI.

The sponsors for the event were Wotton Kearney, M+K lawyers and Terri Bell & Co Lawyers.

Danella Wilmshurst
HWL Ebsworth Lawyers
July 2014

